DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

January 25, 1991

ALL-COUNTY LETTER NO. 91-05

TO: ALL COUNTY WELFARE DIRECTORS
ALL GAIN COORDINATORS

SUBJECT: GAIN POLICY QUESTIONS AND ANSWERS REGARDING IMPLEMENTATION OF ASSEMBLY BILL 312, CHAPTER 1568, STATUTES OF 1990

REFERENCE: ALL-COUNTY LETTER (ACL) 90-111

This is a follow-up to regional training provided by the State Department of Social Services on September 24, 26 and 28, 1990 on the new State regulations which implement Assembly Bill 312, Chapter 1568, Statutes of 1990. This bill, and the new regulations, both of which became effective October 1, 1990, contain the final changes needed to implement the Federal Job Opportunities and Basic Skills (JOBS) Training Program, and other changes to the Greater Avenues for Independence (GAIN) Program.

This letter confirms many of the answers provided in the training sessions and includes questions received from the Counties after the sessions. There are several issues which still need to be resolved. We will provide follow-up question and answer letters as policy decisions on these unresolved issues are reached.

If you have any questions, please contact your GAIN and Employment Services Operations Bureau analyst at (916) 324-6962 or ATSS 454-6962.

DENNIS J. BOYLE
Deputy Director

Attachment

cc: CWDA

2. Q. If a County's funding situation requires that existing participants be removed from GAIN, Section 42-720.633 requires that those who volunteer, i.e., express a desire to continue their participation, are to be removed only after non-Target Population participants and non-volunteers have been removed first. What happens during a cost reduction process involving removal of existing participants if a mandatory participant who expresses a desire to continue participating subsequently fails to participate as required? Would the cause determination/conciliation process commence, or would the individual be treated as someone who did not express a desire to continue participating and be allowed to drop out of the program without penalty?

   A. The cause determination/conciliation process would commence. Once a mandatory participant expresses the desire to continue participating at the time he/she is informed of the reduction, thereafter that person is treated as a mandatory participant and subject to the sanction process if he/she fails or refuses to comply with program requirements without good cause.

3. Q. When should individuals be brought into GAIN who have been excluded from the program under the funding-related deferral provisions which were effective prior to October 1, 1990?

   A. Those individuals previously excluded as funding-related deferrals should be informed about the program and brought into GAIN in two different ways:

   - Those who request to be in GAIN should be evaluated at the time of their request to participate based on the new regulations. The individual's Priority Group status and the County GAIN Plan would determine whether the person would be required or permitted to participate in the program.

   - Those formerly excluded individuals who do not volunteer for GAIN prior to their scheduled redetermination for Aid to Families with Dependent Children (AFDC) should be informed about GAIN at the time of the AFDC redetermination along with other AFDC recipients who are not in GAIN. They should be brought into GAIN if their exemption and priority status, as specified in the County's GAIN plan, qualify or require them to be in the program.

4. Q. Assume a County has sufficient funds to accept into the program all new GAIN participants who are both volunteers and members of the target population

A. COUNTY PLAN UPDATES AND REVISIONS - MPP SECTIONS 42-720.1-.6

1. Q. Does Section 42-720.412 require that the specified agencies automatically be sent copies of annual GAIN plan updates or significant revisions?

   A. No. Section 42-720.412 requires Counties only to make available a copy of the annual GAIN plan or significant revision to affected Private Industry Councils (PICs), local legal aid and welfare rights representatives and public housing authorities on request. Counties must inform affected agencies of the availability of plan updates or revisions.

2. Q. There is a requirement in Section 42-720.412(d)(1) that the annual plan update must be accompanied by a letter from the local PIC(s) certifying the level of local cooperation. Can an Interagency Agreement which certifies this level of cooperation satisfy this regulatory requirement?

   A. Yes. The requirement for a letter of certification is a minimum requirement which could be satisfied by an Interagency Agreement signed by the County and the PIC(s).

B. GAIN PRIORITY GROUPS - MPP SECTION 42-720.63

1. Q. Are the terms "Target Population" and "Priority Group" interchangeable?

   A. No, these terms have different meanings.

   - "Target Population" or "Target Group" refers to a federally-designated group of AFDC applicants and recipients. States must spend at least 55 percent of their JOBS funds on individuals in this group in order to receive enhanced federal JOBS funding. The Target Population was established by the federal government as a group of disadvantaged recipients most likely to benefit from participation in the JOBS Program.

   - "Priority Group" refers to one of the groups of AFDC applicants and recipients designated by State law and Sections 42-720.632 and .633 to receive priority for GAIN services. Federal Target Population membership is one of several criteria which determine which AFDC applicants/recipients fall into the various State-designated Priority Groups for GAIN participation.

(Sections 42-720.632(a) and (b)), but only enough funding to bring in a portion of mandatory non-volunteer Target Population members (Section 42-720.632(c)). Which of the non-volunteer Target Population members should be brought into GAIN first?

A. Under Section 42-720.324(a) the County may designate groups of participants the County plans to target for services so long as the plan is consistent with the Priority Group criteria defined in Sections 42-720.632 and .633. This means that in the above situation, since the County is unable to serve all individuals in the Priority Group specified in Section 42-720.632(c), the County GAIN Plan, subject to State Department of Social Services (SDSS) approval, should specify subgroups of participants within that group who will be targeted for services and explain why these groups have been targeted.

5. Q. If a County has to remove existing participants from their components, what would their status be?

A. They would be excluded from participation due to insufficient funds until such time that funding becomes available to serve them.

6. Q. A 16-year old AFDC custodial parent is attending high school full time and has had more than three continuous months of full-time work experience at minimum wage in the past year. If this individual had received AFDC for 36 or more of the past 60 months as a child in the parent's case, would the individual be a target population member?

A. Yes. Target Population membership is met if an individual meets any one or more of the criteria in Section 42-720.635. It is irrelevant whether the individual received AFDC as a caretaker or as a child. If an individual satisfies the conditions of any one of the subgroups of the Target Population, that person qualifies as a Target Population member.

7. Q. If one family member is a Target Population member, does that mean that other family members automatically are too?

A. No. Each person must meet the criteria individually except in the case of the Target Population subgroup defined in Section 42-720.635(d) (see Number B. 8).

8. Q. The subgroup of the Target Population defined in Section 42-720.635(d) consists of "Members of a family in which the youngest child is within two years of becoming ineligible for AFDC due to age." What does

this mean in a three-generation assistance unit (AU) where the youngest child of the first generation parent may be a 16-year old parent with a child of her own? Is the minor parent or her child considered the youngest child in the family for purposes of the regulation?

A. The Family Support Administration has confirmed that the minor parent would meet the definition of the youngest child in an aided family. There are actually two families in the AU, one headed by the parent of the 16-year old and one headed by the 16-year old parent. For purposes of Section 42-720.635(d), the 16-year old parent is the youngest child in the family unit consisting of herself and her parent; therefore, the parent of the 16-year old would meet the criteria for Target Population membership in Section 42-720.635(d).

C. MINIMUM 10 HOURS PER WEEK OF INSTRUCTION - MPP SECTION 42-730.55

1. Q. Does this minimum requirement include all adult basic education (ABE), general educational development (GED), and English-as-a-second language (ESL) instruction or just ABE and Vocational ESL (VESL)?

A. It applies to all four. This requirement applies to GAIN ABE and VESL instruction as specified in Sections 42-730.51 and .53 respectively. As defined in Section 42-730.51, ABE includes ABE, GED, and ESL instruction.

D. MAKING SATISFACTORY PROGRESS (MSP) - MPP SECTIONS 42-740.14 AND 42-772.51

1. Q. Can a CWD contract with someone to conduct the required evaluation?

A. Yes. This may be necessary where there is a suspected learning disability. The information provided by an evaluation is to be used by the CWD case manager and participant to determine what services are appropriate for the participant. Counties need to ensure that evaluation services are not already available at no cost to GAIN before contracting for these services.

2. Q. Can the GAIN provider contract be used to meet the required quantitative measure for MSP? Can progress reports from a school/contractor be used?

A. The GAIN provider contract can only be used to meet this requirement if it provides enough information to determine the expected duration of an individual participant's training or educational program. Progress reports may be used for this purpose if they specify quantitative progress.

3. Q. How is a participant handled who is referred to the State Department of Rehabilitation for vocational assessment during an MSP evaluation?

   A. If referral takes place <u>during</u> an MSP evaluation, the assessment activity is considered to be a program requirement of a participant's basic education activity agreement. If, as a result of <u>completing</u> the evaluation, the participant is referred to this assessment per Section 42-773.2, then this becomes the new program activity.

4. Q. Will additional funding be provided for diagnostic testing conducted as part of a progress evaluation, e.g., learning disability testing?

   A. No. This testing is to be provided within existing GAIN or community resources. Available Job Training Partnership Act (JTPA) eight percent funding may be a good resource to use for this purpose.

5. Q. How are deferrals and exemptions utilized as part of a progress evaluation and determining "ability to benefit"?

   A. No new deferral or exemption categories have been added as a result of the progress evaluation. The progress evaluation does, however, open up new possibilities for serving participants having difficulty succeeding within the normal GAIN flow.

6. Q. Is CWD staff time spent doing progress evaluation related work considered case management?

   A. Yes.

E. SUPPORTIVE SERVICES - MPP SECTION 42-750

1. Q. The participant changed child care providers and no prior notification of the change was made to the CWD. No emergency or exceptional situation existed. The prior approved provider only requires payment for the days child care was provided. Under Section 42-750.362, can the County pay the new provider from the date services began?

   A. Yes. Counties may pay the new provider from the date services began provided that the new provider meets the criteria in Section 42-750.31.

2. Q. Section 42-750.54 provides that participants in self-initiated programs (SIPs) which were initiated on or after October 1, 1990 shall not be reimbursed for ancillary expenses. Do "ancillary" expenses include books?

A. Yes. Section 42-750.5 defines ancillary expenses as books, tools, clothing, fees, and other necessary costs of a work or training assignment.

3. Q. Can GAIN pay child care for a child age 13 or older who lives in a bad neighborhood?

A. No. As specified in Section 42-750.22, the only exception to the age limit is for children who are disabled or under court supervision.

4. Q. Please define "CWD provided transportation" as used in Section 42-750.411.

A. The phrase "CWD provided transportation" means vehicles operated or purchased by the County for GAIN participant use or transportation provided pursuant to a County contract to provide transportation services for GAIN participants.

F. SUPPORTIVE SERVICES ADVANCE PAYMENTS - MPP SECTION 42-750.6

1. Q. When Counties collect the unused portion of advance payments, can the entire amount be recouped from the next payment?

A. Yes, as specified in Section 42-750.62.

2. Q. If the unused portion of an advance is for child care and there is no additional request for child care, can the CWD recoup from transportation?

A. No. As specified in Section 42-750.621, unreconciled portions of child care advances must be recouped only from future child care payments (Title IV-A funding). Unreconciled amounts from transportation and ancillary advances can be recouped from either future transportation or ancillary expense payments (Title IV-F funding).

3. Q. Please provide an example of how recoupment of unused portions of advance payments work.

A. The CWD issues an advance payment in October for November. The participant provides proof of costs incurred between November first and tenth. The CWD discovers an unused portion of the October advance. The CWD provides a 10-day notice to the individual prior to either: (1) reducing the advance payment to be issued in November or to cover services in December, or (2) reducing the reimbursement for services in December. Any remaining uncollected portion is an overpayment subject to recovery under Section 42-751.

G. SUPPORTIVE SERVICES PENDING A HEARING DECISION - MPP SECTION 42-750.7

1. Q. A participant requests a hearing to appeal a reduction in GAIN child care from $300 to $200 per month. During the hearing process, the County proposes to further reduce the participant's child care from $200 to $100 per month. How much child care should the participant receive until the hearing decision is reached?

   A. The County may further reduce or terminate GAIN supportive services during the hearing process when the County becomes aware of a change in participant circumstances which warrants such reduction or termination (e.g., when a participant's child no longer meets eligibility criteria as specified in Section 42-750.2). The participant must receive timely written notification prior to a decrease in GAIN supportive services payments (see Section 42-750.81). In the example under consideration, the participant would receive $100 in GAIN child care pending the outcome of the hearing decision.

2. Q. When a participant appeals a reduction in GAIN supportive services and the hearing decision is made in favor of the participant, are those supportive services withheld during the hearing process retroactively restored? If so, are receipts required?

   A. As specified in Section 22-028.1, the County must comply with the findings of a State hearing decision. Such compliance may include retroactive restoration of GAIN supportive services.

   Participants should be required to submit appropriate documentation for retroactive receipt of supportive services payments. In some cases, this may require that they provide receipts.

H. SUPPORTIVE SERVICES - FINANCIAL AID - MPP SECTION 42-750.9

1. Q. Is the CWD required to ask for proof of how the financial aid was spent and why it is "not available" for GAIN supportive services needs?

   A. No. Counties have no authority to mandate how the money is used. Therefore there is no reason to ask for receipts or proof of expenses.

2. Q. Can the individual spend his/her financial aid money on anything (e.g., vacation, recreation, etc.) and get GAIN paid supportive services because the financial aid money is "not available"?

A. Yes. While it is expected that the individual will spend the financial aid for the purpose intended, GAIN has no authority to mandate how it is used.

3. Q. Are the financial aid agreements binding on the participant? If not, why should Counties have agreements with the financial aid offices?

A. The agreements are not binding on the participant. However, to the extent these agreements are available, they can provide the participant with upfront knowledge of how specific supportive services needs will be met.

4. Q. Is entering into agreements with financial aid offices an option?

A. There is no requirement that an agreement exist with each financial aid office. However, Section 42-750.94 requires that Counties attempt to enter into agreements with the financial aid offices.

5. Q. Please define "attempt" to enter into a written agreement with the financial aid office at appropriate educational institutions providing GAIN services.

A. The County can attempt to enter into individual agreements with each educational provider through letter, telephone or meeting. Counties may try to get several educational providers to enter into a mutual agreement with the CWD or the County may try to organize a task force which includes representatives from the financial aid offices throughout the County to enter into one agreement with the CWD.

6. Q. If the student budget designates a specific amount for transportation and child care, but the individual still indicates a need for GAIN transportation or child care, does GAIN have to provide the supportive services payment?

A. Yes. If the individual indicates a need, GAIN regulations require that payments needed for GAIN participation be provided.

7. Q. If GAIN pays supportive services because the financial aid has not been received by the participant, can GAIN ask for a reimbursement when the financial aid is received? If not, can GAIN accept a reimbursement if it is offered?

A. The CWD cannot ask for or accept a reimbursement from a participant when the financial aid is received at a later date.

8. Q. A community college financial aid office has an arrangement with the campus bookstore. It provides, by means of voucher, $200 of student financial aid directly to the bookstore from each student's financial aid package to pay for necessary books.

   If the financial aid is not available when school starts, the County is required to provide ancillary funds to pay for the needed books. Can the County accept repayment for the cost of the books from the bookstore when the bookstore receives the financial aid voucher?

   A. No. GAIN supportive services cannot be treated as a loan.

I. UNDERPAYMENTS AND OVERPAYMENTS OF SUPPORTIVE SERVICES - MPP SECTION 42-751

1. Q. Regarding Section 42-751.121(a)(1), which absence standard should the County use, 10 percent or the provider standard?

   A. The County should use the provider's standard. The 10 percent should be used when there is no provider standard.

2. Q. Regarding Section 42-751.121, if an AFDC recipient, who is also a GAIN participant, is determined ineligible for AFDC at a subsequent time and the AFDC received is considered an overpayment, are the GAIN supportive services payments received also an overpayment?

   A. If the AFDC payments received were a result of fraud, the GAIN supportive services would be considered an overpayment.

3. Q. An individual registers in GAIN at AFDC intake, participates in GAIN Appraisal and Job Search, and receives supportive services payments. If the grant is denied, are the GAIN paid supportive services overpayments and collectible?

   A. No. Applicants for AFDC who participate in GAIN are eligible for GAIN supportive services.

4. Q. Are overpayments discovered before 10/1/90 subject to the new rules?

   A. Yes, if the collection of the overpayments occurs after 10/1/90.

5. Q. If we cannot request an AFDC grant adjustment, can we suggest it?

A. No. The County may only inform the individual of the option. The County should not advocate this method of recovery.

6. Q. What happens if the County is unable to meet the 30-day limit to enter a repayment agreement?

A. The 30-day limit is an administrative timeframe the County should try to meet. If unable to do so, the County must continue to attempt collection of the overpayment.

7. Q. Do we collect overpayments from the provider regardless of the payment method (e.g., contract, agreement or vendor payment)?

A. No. Section 42-751.22 specifies the individuals from whom the County can recoup overpayments; providers are not included. However, if the provider violates the terms of a contract, the County would take the appropriate steps to remedy as specified in the contract.

J. APPRAISAL - MPP SECTION 42-761

1. Q. How is a determination made as to whether a registrant is "unable to benefit" from GAIN basic education services at Appraisal? (Section 42-761.363)

A. The determination that a registrant appears to be unable to benefit is made based upon all background information available at Appraisal. The referral to and completion of an evaluation, as provided in Section 42-772.512, shall serve to determine overall ability to benefit.

2. Q. Can a registrant be referred for a full Assessment as described in Section 42-773.2 if determined "unable to benefit" at Appraisal?

A. Yes, if the results of the evaluation completed per Section 42-761.363 indicate this is the most appropriate activity for a registrant.

3. Q. Is the requirement to participate in basic education waived for participants determined to "not be able to benefit" from basic education instruction?

A. Yes. Section 42-772.5 would only be waived if the results of an evaluation indicated that another GAIN activity would be more appropriate.

K. SELF-ENROLLED BASIC EDUCATION PARTICIPANTS - MPP SECTIONS 42-761.361(a) AND 42-772.56

1. Q. What activity and resultant participant agreements are applicable to these individuals?

   A. These individuals become basic education participants and the BASIC EDUCATION SERVICES ACTIVITY AGREEMENT (GAIN 2) needs to be signed.

2. Q. Is time in basic education limited to two years similar to the two-year time limit for SIPs as specified in Section 42-772.4?

   A. No. As with other basic education participants referred by GAIN, their instructional time is not limited.

3. Q. What are the appropriate Appraisal testing instruments referenced in the regulations for these individuals?

   A. The same CASAS GAIN Appraisal testing instruments which are used at Appraisal are required per Section 42-761.361.

4. Q. Can ancillary expenses be paid for these participants?

   A. Yes.

5. Q. What happens to individuals who at Appraisal are enrolled solely in basic education, and are determined to not be in need of such basic education instruction; e.g., have high school diplomas, and score 215 or higher on the GAIN Appraisal testing instruments? Should they be permitted to complete their current term/quarter?

   A. These individuals cannot be approved as self-enrolled basic education participants and are to be deferred under Section 42-761.4(p) which will let them complete the current term/quarter. Once the current term/quarter is completed, not to exceed six months, they are to be brought into GAIN and placed in the next appropriate GAIN activity.

L. DEFERRALS - MPP SECTION 42-761.4 (except SIPs)

1. Q. Does the second parent deferral apply to custodial teen parents? If so, can custodial teen second parents volunteer? (Section 42-761.4(m))

   A. Yes. The second parent deferral applies to custodial teen parents. If a custodial teen second parent chooses to, he/she can waive the deferral and participate as a mandatory participant.

2. Q. Does the automatic deferral for second parents apply if the first parent is not participating? (Sections 42-761.4(m) and 42-761.41)

   A. No. It applies only if the first parent meets all of the criteria in Section 42-761.4(m)(i)-(iii), including GAIN participation.

3. Q. Does the deferral due to lack of child care for a child with special needs require documentation by a physician? (Section 42-761.4(n))

   A. Yes. Section 42-761.4(n) refers to Section 42-750.22(b), which specifies the documentation requirements.

4. Q. If child care is unavailable for a child under age 13, can the parent be required to participate during the child's school hours? (Section 42-761.4(n))

   A. Yes.

5. Q. Can an individual be deferred due to lack of transportation prior to attending Orientation/Appraisal? If so, how can Counties capture participant data which is normally captured at Appraisal? (Section 42-761.4(o))

   A. Yes, an individual can be deferred due to lack of transportation (or any other deferral reason) prior to attending Orientation/Appraisal. Any participant data that is needed can be acquired in a number of ways, including: from the AFDC case file; through a telephone call to the deferred individual; by a home visit; or, by a questionnaire sent to the deferred individual.

6. Q. Is a County plan revision required if a County wants to automatically defer another category of deferral?

   A. Yes, a plan revision is required if a County wants to defer other deferral categories prior to Appraisal.

7. Q. Can Counties choose to automatically defer pregnant women? If so, can pregnant women be automatically deferred for all three trimesters?

   A. Counties can, prior to Appraisal, defer pregnant women who are in the first trimester of pregnancy. However, after the first trimester, these women would become exempt due to pregnancy (Section 42-797). As specified in Number L. 6 above, a plan revision would be required to automatically defer these individuals.

8. Q. Can individuals who are automatically deferred waive the deferral and participate?

   A. Yes. Individuals who are deferred prior to Appraisal can choose to waive the deferral and participate as mandatory participants.

9. Q. Do CWDs have discretion to determine whether eligibility workers (EWs) or GAIN workers are responsible for determining automatic deferrals under Section 42-761.14?

   A. Yes.

10. Q. Will SDSS be issuing new deferral codes for the "GAIN PROGRAM STATUS" (GAIN 27)?

    A. Counties should use the following revised/new deferral codes for the GAIN 27 until further notice:

    Code 21 - revised to "SIP, no labor market connection or cannot be completed in two years."

    Code 33 - First trimester of pregnancy.

    Code 34 - Teen parent, special needs.

    Code 35 - Second parent, first parent participating.

    Code 36 - Education/training not approvable for GAIN.

M. SELF-INITIATED PROGRAMS - MPP SECTIONS 42-761.4 AND 42-772.4

1. Q. The approval for a SIP can only be given if the individual is expected to complete within two years. Isn't this contrary to All-County Letter 90-68, which directed Counties to approve SIPs that take longer than two years?

   A. All-County Letter 90-68 was issued in response to a lawsuit to clarify the then existing statute and regulations. As of October 1, 1990, new statutory and regulatory language took effect which requires that SIPs may be approved only if they are scheduled for completion within two years.

2. Q. The October 1, 1990 regulations and the training workshop announcement, ACIN 1-71-90, have conflicting information concerning the number of extensions allowed for SIPs. Please clarify.

A. The ACIN is incorrect. It refers to provisions of AB 312 that were subsequently changed. The October 1, 1990 regulations provide for only one extension under specific circumstances.

3. Q. If an individual comes to GAIN and is enrolled and classes start in three weeks, should the SIP be denied because the person is not "attending?"

A. No. Section 42-772.4 specifies that individuals who are "enrolled in" or "attending" a self-initiated program be considered for approval.

4. Q. Should an individual who has an Associate of Arts (A.A.) degree that provides skills to obtain employment be considered employable?

A. Individuals who have A.A. degrees and skills to obtain employment could be considered employable if they meet the income test of employability defined in Section 42-772.431(b). The possession of an A.A. degree, however, is not sufficient to automatically deem an individual employable.

5. Q. For the purposes of employability, are there any exceptions to the provision concerning the possession of a Bachelor's degree? For example, certain post-baccalaureate courses are required in order to obtain a teaching credential in California.

A. No. An individual with a Bachelor's degree is always considered "employable" under the SIP approval criteria in Section 42-772.431(a).

6. Q. For the purposes of determining labor market availability under Section 42-772.422(b), concerning a list of three employers who have frequent openings, is a list sufficient or should the employers state that they have frequent openings? Must this be verified?

A. The list of employers is sufficient. There is no regulatory requirement to verify.

7. Q. Section 42-761.4(a) allows an individual in any degree or certificate program to be deferred. Does this include A.A. degrees, correspondence courses, etc.? Does it require a link to the labor market?

A. A degree, correspondence course or certificate program that meets the full-time attendance and progress standards in the regulations meets criteria for deferrals, which are available to individuals whose programs cannot be approved as a SIP. The link to the

labor market is a SIP approval criterion and the lack of the labor market link could be the reason that the SIP was disapproved. Deferrals under Section 42-761.4(a) do not require a link to the labor market.

N. TEENS - MPP SECTIONS 42-772.7, 42-761.4(1), 42-781.213, and 42-790

1. Q. Clarify the "special need" that would affect a teen parent's ability to attend school and allow him/her to be deferred under Section 42-761.4(1).

   A. Special needs refer to those services or interventions an individual requires in order to be able to attend school. They must be determined on an individual, case-by-case basis. An example might be drug or alcohol dependence requiring rehabilitation and therapy.

2. Q. According to Section 42-772.762, case managers assigned to assist teen parents shall be afforded "sufficient time" to provide the needed education and supportive services. What criteria will be used to identify/determine "sufficient time?"

   A. The SDSS purposefully did not attempt to define case management workload standards in the regulations. This is more appropriately determined at the County level. By including this requirement in statute and regulations, the State recognizes that teenage parents have unique problems that are not faced by most adult GAIN participants. It is likely to require more case management time to resolve these problems so that the teen parent can be successful in a GAIN activity.

3. Q. Sections 42-720.325(c) and (d) allow case management activities to be contracted out for teenage parents. Does this include cause determinations, sanctions, etc.?

   A. No. Federal regulations (45 CFR 250.10) specifically prohibit the State agency from contracting for certain actions, including: determination of exemption status, determination of good cause for failure or refusal to participate, determination and application of sanctions, and providing notice of case actions.

4. Q. Now that the development of a preliminary employment plan for teenage parents is no longer optional, how should this plan be developed? What are the contents since the only approvable GAIN activity is attending school to obtain a high school diploma or equivalent?

A. The preliminary employment plan for teenage parents is to be developed in the same manner as for all GAIN participants. The County must use the "GAIN APPRAISAL" (GAIN 26) to document the preliminary employment goal.

5. Q. Do we give teenagers the CASAS test?

A. Administration of the CASAS test is not required for custodial parents under age 20 who are mandated to participate in GAIN pursuant to Section 42-772.7. Teenagers who are not parents are subject to the same requirements as other GAIN participants.

6. Q. What do we do with a teenager who is a high school dropout and scores less than 215 on the CASAS test? Do we send him/her to ABE?

A. For a custodial parent under age 20, the only appropriate assignment is education in order to earn a high school diploma or equivalent. An 18 or 19 year old custodial parent can be sent to GED preparation classes, where he/she will receive instruction in basic skills. For 16 and 17 year old custodial parents, the CWD must work with the local school district to locate an appropriate placement where they can work on their basic skills while obtaining a high school diploma. Teenagers who are not parents are subject to the same requirements as other GAIN participants.

7. Q. Can teen parents who are exempt from GAIN because they are in school or under age 16 volunteer for GAIN? If so, are they in a target group?

A. Yes, they can volunteer. Teenage parents would meet the definition for a Federal Target Group if either of the following is true: (1) they have had little or no work experience in the preceding year (no more than a three-month continuous period of employment compensated at least at the California minimum wage level); or, (2) they have not completed a high school education and are not enrolled in high school or in a high school equivalency course of instruction (Sections 42-720.635(c)(1) and (2)).

8. Q. Is the education plan only for 16 and 17 year olds?

A. Yes. Section 42-772.742 only requires an education plan for 16 and 17 year old custodial parents who are mandated to participate in GAIN. There is no GAIN requirement that an education plan be developed for a 16 or 17 year old non-parent teen.

9. Q. If a teen parent enrolls in high school after notification of the requirement to participate, but before Orientation/Appraisal, does the "revolving door" provision apply?

   A. No. If the teen parent is enrolled in school prior to GAIN Appraisal, he/she is exempt from participation. The "revolving door" used to apply to persons who were enrolled in and attending school as a GAIN activity, dropped out and then subsequently re-enrolled and became exempt.

10. Q. Any 16, 17 or 18 year old, whether or not he/she is a custodial parent, is exempt if attending school full time. Does this exemption apply to an individual who is attending a continuation school or special teen parent program of some kind? For example a teen parent program which provides educational services two hours a day and leads to a GED?

    A. Yes, so long as he/she is attending full time as defined by the program.

11. Q. Section 42-781.213 requires notification to the parent(s) or guardian(s) of a 16 or 17 year old custodial parent who fails or refuses to comply. Is this notice also required for a 16 or 17 year old non-parent who is a mandatory participant? Do "voluntary" teens who fail or refuse to comply need to have their parent(s) sent an informing notice?

    A. The answer to both questions is no. The notice to a teenager's parent(s) is only required for 16 and 17 year old custodial parents who are mandatory participants.

12. Q. Is the notice to the teen's parent(s) a separate notice, or is the parent(s) sent the same notice that the teen receives.

    A. This notice, "GAIN NOTICE TO PARENT/LEGAL GUARDIAN OF TEEN PARTICIPATION PROBLEM" (TEMP GAIN 42), is sent separately, but at the same time that the notice is sent to the teen.

13. Q. If a teenage parent is not emancipated and is living with his/her parent(s) or legal guardian(s), the parent(s)/guardian(s) shall be notified of the teen parent's failure to comply. Will we need documentation that the teen parent is emancipated in order not to notify the parent(s) or guardian(s)?

A. The AFDC case record will contain this information. If it is not already known, the case manager should become aware of this situation during the course of working with the teen parent. Although the regulations do not require documentation, the fact should be noted in the case file.

14. Q. If a 16 or 17 year old custodial parent needs counseling to successfully participate in GAIN and the counseling is available but the teen has no transportation or child care from sources other than GAIN (who cannot pay supportive services for this activity) can he/she be deferred? If so, would this be based on lack of supportive services or on a special need that directly affects his/her ability to attend school or be successful?

A. Yes. He/she can be deferred under Section 42-761.4(1) which includes both lack of supportive services and having a special need that cannot be met.

15. Q. We have had cases of teenagers who have been kicked out of local schools and we have been unable to find a high school or educational program that will accept them. Adult schools require a person to be 18 before accepting them, and we have had cases where adult schools have also refused to accept or keep a participant. What do we do in these cases? The teens may or may not be custodial parents.

A. If, after all possible options have been explored, no suitable placement is available, a 16 or 17 year old custodial parent could be deferred under Section 42-761.4(1), as he/she would have a special need that prevents him/her from being successful in school. If a teen is not a parent, he/she is subject to the regular GAIN client flow and could be placed in a more appropriate assignment.

O. FAILURE OR REFUSAL TO COMPLY - MPP 42-781.1

1. Q. What is the definition of "activity" as used in "failing or refusing to attend any assigned activity"? (Section 42-781.12)

A. "Activity" is defined as any required GAIN activity or component, including those activities for which a GAIN participant contract is not required. This includes Orientation/Appraisal and appointments with the GAIN worker.

2. Q. Does failure or refusal to participate in any assigned activity include failure or refusal to attend a deferral review appointment? (Section 42-781.12)

A. Yes. Any appointment with the GAIN case manager, including a deferral review appointment, is an assigned activity. However, this does not include appointments related to cause determination/conciliation. There are other provisions which address the consequences for failing or refusing to attend cause determination/conciliation appointments.

If an individual fails or refuses to attend a deferral review appointment, the County must conduct a cause determination. If it is determined there is good cause for the failure or refusal, the County would take the appropriate steps as specified in Section 42-781.3; this includes continuation of the deferral if appropriate. If it is not appropriate to continue the deferral, the individual would be required to begin GAIN participation.

If it is determined there is no good cause, a conciliation plan would be entered into which would require the individual to attend a deferral review appointment; such attendance would result in successful conciliation. At that point, the deferral would be continued if appropriate, or, if it is not appropriate, the individual would be required to begin GAIN participation. If the individual does not attend the deferral review appointment and, therefore, does not meet the terms of the conciliation plan, a financial sanction would be imposed.

There is nothing to preclude a County from conducting a deferral review over the phone or through a home visit. In fact, for some deferrals, these may be the only methods available to a County. For example, an individual who is deferred due to a lack of child care or transportation may not be able to come to the GAIN office for a deferral review appointment.

3. Q. A mandatory participant who becomes employed for 30 or more hours per week is deregistered from GAIN. How can Counties do good cause/conciliation if this participant terminates the employment? (Section 42-781.14)

A. Counties are required to conduct cause determinations as specified in Section 42-781.14 anytime it is discovered that an AFDC recipient, who is a former mandatory GAIN participant, terminates employment.

4. Q. For mandatory participants who become employed for 30 or more hours per week and remain on aid, who is responsible for monitoring the employment and determining good cause if the employment is terminated? (Section 42-781.14)

A. This is up to the CWD, but is seems likely that the EW would identify a job quit through the monthly income reports and would notify the GAIN worker. The GAIN worker would then initiate the cause determination/conciliation process.

5. Q. Do the net loss of income provisions in Section 42-784 apply when determining whether an individual had good cause for terminating employment? (Section 42-781.14)

A. No. The net loss of income provisions in Section 42-784 apply only when determining whether an individual must accept a job offer.

6. Q. An individual receives a GAIN 24 before 10/1/90 informing him/her that he/she is a mandatory participant, accepts a job after 10/1/90, but prior to Orientation/Appraisal, and then terminates employment. Is this individual subject to the provisions of Section 42-781.14?

A. Yes, if the individual has previously been informed that terminating employment is a sanctionable action.

7. Q. Is an individual who is discontinued from AFDC due to employment subject to Section 42-781.14 if he/she terminates that employment?

A. No. Only those individuals who have been informed of their mandatory status and who then become employed and remain on aid are subject to Section 42-781.14.

8. Q. If an individual has terminated employment without good cause, how can he/she conciliate or cure the sanction? (Sections 42-781.14, 42-781.7 and 42-786.2)

A. To conciliate, the individual would have to agree to a conciliation plan which calls for GAIN participation; to cure a sanction, he/she would have to either sign a participant contract or participate in the appropriate activity.

9. Q. What constitutes "reducing earnings"? (Section 42-781.15)

A. "Reducing earnings" includes: voluntarily reducing the number of hours of employment which results in a reduction in earnings; and, voluntarily accepting a lower paying position with the same employer.

10. Q. Are Counties required to report on the GAIN 25 the number of mandatory participants who become employed for 30 or more hours per week and remain on aid? If so, how? (Section 42-781.14)

A. The GAIN 25 requirements have not been revised to require reporting of such participants.

P. CONCILIATION - MPP SECTIONS 42-781.2-.9

1. Q. What notices are required for those individuals who fail to attend the initial cause determination interview or conciliation appointment and who cannot be reached by telephone during the period of conciliation? (Sections 42-781.2-.9)

   A. Three different notices are required: (1) "GAIN NOTICE OF A PARTICIPATION PROBLEM" (TEMP GAIN 43) for the initial cause determination interview; (2) "GAIN NOTICE OF NO GOOD CAUSE DETERMINATION AND CONCILIATION APPOINTMENT" (TEMP GAIN 44); and (3) "GAIN NOTICE OF MISSED CONCILIATION APPOINTMENT: FAILED TELEPHONE ATTEMPT" (TEMP GAIN 46).

2. Q. When an individual expresses an unwillingness to comply with program requirements while interacting with a County worker, can the initial cause determination interview be conducted immediately or should the interview be scheduled to occur at least six working days following issuance of the "GAIN NOTICE OF A PARTICIPATION PROBLEM"? (Sections 42-781.21 and .251)

   A. The "GAIN NOTICE OF A PARTICIPATION PROBLEM" (TEMP GAIN 43) must be issued prior to conducting the initial cause determination interview. The CWD should make reasonable efforts to issue this notice at least six working days prior to the initial cause determination interview.

3. Q. When an individual attends the initial cause determination interview on the tenth working day following the County's discovery of non-compliance and is told that a doctor's note is needed for exemption, should the individual be given ten working days to provide the physician's statement or must a cause determination be made at the interview? (Section 42-781.25)

   A. Section 42-781.25 specifies that a cause determination must be made within 20 working days of the discovery of an individual's failure or refusal to comply with program requirements, unless delayed by extenuating circumstances. If the County determines additional information is needed to substantiate a claim of good cause, an individual may be given until the 20th working day of the cause determination process to provide such information. The County may permit additional time due to extenuating circumstances.

4. Q. When an individual participates in the initial cause determination interview and a determination of no good cause is made, under what conditions can the appointment for conciliation immediately follow the cause determination interview? If the initial cause determination is conducted by telephone, can the appointment for conciliation immediately follow or must the County first mail the conciliation appointment notice? (Sections 42-781.413 and .23)

   A. Regulations specify two conditions which must be met if the appointment for conciliation is to immediately follow the initial cause determination interview. First, both the individual and the County must agree to consecutive appointments. Second, the individual must be given the "GAIN NOTICE OF NO GOOD CAUSE DETERMINATION AND CONCILIATION APPOINTMENT" (TEMP GAIN 44) prior to the conciliation appointment. If the initial cause determination interview is conducted by phone, the County must issue this notice prior to the conciliation appointment.

5. Q. When an individual fails to attend the appointment for conciliation and the County is unable to reach the individual by telephone, are there required time parameters within which the "GAIN NOTICE OF MISSED CONCILIATION APPOINTMENT: FAILED TELEPHONE ATTEMPT" must be issued? (Section 42-781.441)

   A. Regulations do not specify time parameters for issuing the "GAIN NOTICE OF MISSED CONCILIATION APPOINTMENT: FAILED TELEPHONE ATTEMPT" (TEMP GAIN 46) other than following the missed conciliation appointment and unsuccessful telephone efforts and prior to the end of the 30-calendar-day conciliation period.

6. Q. Are Counties required to verbally inform those individuals who participate in the appointment for conciliation of the right to supervisory review of the initial cause determination or is language on the "GAIN NOTICE OF NO GOOD CAUSE DETERMINATION AND CONCILIATION APPOINTMENT" sufficient? (Section 42-781.51)

   A. Regulations do require Counties to inform individuals of the right to request that a supervisor review the initial determination of no good cause and of the right to provide additional good cause information. These rights are included on the conciliation appointment notice (TEMP GAIN 44) to insure that all who are required to participate in conciliation are adequately informed.

7. Q. Must a written agreement to terminate conciliation sooner than 30 calendar days, a written agreement to extend conciliation by 10 calendar days, or a written conciliation plan be signed by the individual during a face-to-face meeting, or can the CWD mail agreements to individuals for their signature? (Sections 42-781.611, .62 and .7)

A. The County should make reasonable efforts to meet face-to-face with an individual to discuss termination or extension of conciliation and to reach agreement on a conciliation plan. If these efforts are unsuccessful, written agreements required within the conciliation process may be sent to individuals for their signature. These agreements are not in effect until they have been signed by both the individual and the County. The agreements must be retained in the individual's case file.

8. Q. When has an individual "agreed to participate" during conciliation? Within what timeframes must an individual "agree to participate" or be subject to sanctions? (Section 42-781.7)

A. An individual has "agreed to participate" when a written conciliation plan has been agreed to and signed by both the individual and the County. Such agreement must be reached within the 30-calendar-day conciliation period or, when necessary and appropriate, the 10-calendar-day extension of conciliation. When a written conciliation plan is not agreed to and signed within these time frames, the individual shall be subject to sanctions.

9. Q. When should conciliation be considered successful? (Section 42-781.7)

A. Conciliation is considered successful when the terms of an agreed-upon conciliation plan have been fulfilled. The terms of a plan involving component participation shall require completion of the agreed-upon activity or participation for two consecutive calendar weeks, whichever occurs first. Successful completion of an agreed-upon conciliation plan is not required within the 30-calendar-day conciliation period or the 10-calendar-day extension of conciliation.

10. Q. When a conciliation plan requires component participation for two consecutive calendar weeks, how many absences should be permitted before a cause determination is required? Is the ten percent rule found in Section 42-782.2 to be used? (Sections 42-781.713 and 42-782.2)

A. The CWD shall conduct a cause determination when an individual, whose conciliation plan requires component participation, is absent or tardy in excess of the provider's standard or in excess of 10 percent of the monthly hours required for that component if there is no provider's standard (Section 42-782.2).

11. Q. Can the cause determination interview which follows failure to comply with an agreed-upon conciliation plan be conducted by telephone? (Section 42-781.81)

A. Yes.

12. Q. When an individual is found to have good cause for failing or refusing to comply with an agreed-upon conciliation plan involving component participation, and GAIN participation is still required, what should the individual be required to do to successfully fulfill the terms of the plan?

A. When component participation is required, the individual shall fulfill the terms of the plan by participating for the number of days missed and not yet attended.

13. Q. When an individual fails without good cause to comply with an agreed-upon conciliation plan and the 30-calendar day conciliation period has not expired, should the County respond to the individual's attempts to resolve the dispute before the 30-calendar days have ended? (Section 42-781.84)

A. No. The 30-calendar days allotted for conciliation ends when an individual and the County sign an agreed-upon conciliation plan. Failure, without good cause, to comply with an agreed-upon conciliation plan shall result in the imposition of sanctions (see Number P. 8 above).

14. Q. What should be done with a participant who is expelled from school due to poor attendance?

A. Begin the cause determination/conciliation process.

Q. GOOD CAUSE - MPP SECTION 42-782

1. Q. Please explain when good cause should be used for lack of transportation or child care as opposed to when a deferral should be used. (Sections 42-782.1(f) and (i) and 42-761.4(o) and (n))

A. Good cause for lack of transportation (Section 42-782.1(f)) or child care (Section 42-782.1(i)) should be used in short-term

situations. For example, the participant's car tire is flat and it will take two days to repair; or, the child care provider has the flu.

Deferral for lack of transportation (Section 42-761.4(o)) or child care (Section 42-761.4(n)) should be used in longer-term situations. For example, the participant has no means of private transportation and there is no public transportation available; or, there is no child care available in the area. Use of a deferral for lack of transportation or child care does not negate the County's responsibility to develop adequate resources to meet the unmet need, as specified in Section 42-720.326.

R. SANCTIONS - MPP SECTION 42-786

1. Q. If the activity in which the individual must participate in order to cure the sanction is not available at the time the individual wants to cure the sanction (e.g., the next job club is not until the next month), when is the sanction considered cured: when the individual agrees to participate or when he/she actually participates? (Sections 42-786.22-.24)

   A. Sections 42-786.22-.24 provide that to cure a sanction, an individual must either sign a contract or participate in the required activity; agreeing to participate in an activity does not cure the sanction. In a situation where the required activity will not be available for a period of time, the sanction can be cured by signing the contract rather than making the individual wait until the activity is available.

2. Q. Does the County have the discretion to decide whether the individual has to sign a contract or participate in an activity in order to cure the sanction? Can the County require the individual to do both? (Sections 786.22-.24)

   A. To cure a sanction, an individual must either sign a contract or participate in the required activity; a sanctioned individual cannot be required to do both.

   In general, the action needed to cure a sanction must be related to the action of non-compliance. If the individual is sanctioned for failing or refusing to sign a contract, the sanction cure would be to sign the contract; if the individual was sanctioned for failing or refusing to attend an activity, the sanction cure would be to participate in the required activity.

However, as stated in Number R. 2 above, if the required activity is not available at the time an individual wants to cure a sanction, it is recommended that the individual sign a contract in order to cure the sanction at that time rather than making him/her wait until he/she can participate to cure the sanction.

3. Q. If a sanctioned individual becomes eligible for a deferral or exemption before the sanction has been cured, is he/she still required to cure the sanction? If so, how can the sanction be cured if he/she is not required to participate? (Sections 42-786.22-.24)

A. If a sanctioned individual becomes eligible for a deferral or exemption before he/she has cured the sanction, the sanction would be "deemed" cured as follows:

- If the sanction is the first instance sanction (curable at any time), the sanction is deemed cured upon determination that the sanctioned individual meets a deferral or exemption criterion.

- If the sanction is the second instance sanction (curable after three months) or the third or subsequent instance sanction (curable after six months), the sanction is deemed cured upon expiration of the three or six months or when the deferral or exemption criterion is met, whichever is later.

4. Q. If an individual is required to attend Orientation/Appraisal to cure a sanction and AFDC has not yet been restored, is he/she eligible for supportive services so that he/she can attend Orientation/Appraisal? (Sections 42-786.22-.24)

A. Yes, an individual who wants to cure a sanction and has reapplied for aid is eligible for supportive services.

5. Q. If an individual cures a sanction by signing the contract and then doesn't attend the component, what is the next appropriate action to take?

If an individual cures a sanction by participating in the required activity, but doesn't complete the activity, what is the next appropriate action to take? (Sections 42-786.22-.24)

A. In both situations, since the actions taken by the sanctioned individual have cured the sanctions, any subsequent failure or refusal to comply would be a new instance of non-compliance. Therefore, the next

appropriate action would be cause determination, followed by conciliation if no good cause is determined.

If conciliation is unsuccessful, the sanction imposed would be the next instance sanction. For example, if both of the above situations were first instance sanctions (curable at any time), the next sanction would be the second instance sanction (curable after three months).

6. Q. If the first parent has been sanctioned and the second parent is employed for at least 40 hours per week for at least minimum wage, what is the second parent's status? Is a participant contract required for the second parent? (Section 42-786.314(a))

   A. A second parent in this situation would be meeting GAIN participation requirements. A participant contract is not required. If the second parent terminates the employment, his/her aid would immediately be discontinued without a cause determination and following timely notice as specified in Section 42-786.314(g).

7. Q. If a second parent is participating to avoid the first parent's sanction and the first parent cures the sanction, can the second parent stop participating? (Section 42-786.314)

   A. If the first parent cures the sanction and resumes participation, the second parent would likely be eligible for the second parent deferral (Section 42-761.4(m)) and could stop participating.

8. Q. If there is a minimum three or six month sanction in effect because of the non-compliance of the first parent, can the second parent agree to participate to avoid the sanction before the three or six months have expired?

   A. Yes. As specified in Section 42-781.65, the second parent can agree to participate at any point in time during the first parent's sanction.